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# CIVIL AND POLITICAL RIGHTS

Written statement submitted by Human Rights Watch, a non-governmental organization in consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

GE.00-10488 (E)

## Cuba

1. Cuban law severely restricts the exercise of fundamental human rights of expression, association, assembly, movement and the press. Laws criminalizing enemy propaganda, the spreading of "unauthorized news" and the insulting of dead heroes, among others, effectively deny freedom of speech under the guise of protecting State security. Authorities also imprison or order the surveillance of individuals who have committed no illegal act, relying upon laws penalizing "dangerousness" (*el estado peligroso*) and allowing for official warning (*advertencia oficial*). In 1999, the Government created new legal mechanisms to strengthen its repressive authority. Cuba's National Assembly approved the Law for the Protection of the National Independence and the Cuban Economy (*Ley de Protección de la Independencia Nacional y la Economía de Cuba*) in February, establishing harsh penalties of up to 20 years for any actions that could be interpreted as support for the United States embargo against Cuba.

2. Cuba also clamped down on dissidents and other activists in 1999, evidenced by, most notably, the trial and conviction of four leaders of the Internal Dissidents' Working Group. The Government controlled the courts, undermining the right to a fair trial by restricting the right to a defence. The Council of State, a political entity presided over by President Castro, reviewed death penalty cases, undercutting judicial independence. At least 12 prisoners were reportedly executed in 1999.

## Peru

3. The Government of President Alberto Fujimori continues to weaken civil and political rights by intervening in the judiciary and in autonomous constitutional bodies designed to monitor and protect the rule of law, including the Constitutional Court and the Attorney General's office. The National Intelligence Service (Servicio de Inteligencia Nacional, SIN), acting on the orders of its de facto head, Vladimiro Montesinos, has been widely accused of political espionage, harassment, violations of freedom of expression and manipulation of governmental bodies. These actions appear to be specifically designed to undermine opponents of President Fujimori's efforts toward his second re-election in the year 2000, and to harass his electoral competitors.

4. In June 1998, Peru unilaterally withdrew its recognition of the jurisdiction of the Inter-American Court of Human Rights. This unprecedented move occurred after the Court ordered Peru to grant a new trial to four Chileans convicted of treason in 1994 by a "faceless" military court, having determined that the defendants had been denied due process. The court was also due to consider a demand for the reinstatement of three Constitutional Court judges who had been dismissed for voting against President Fujimori's right to stand for re-election.

## Sudan

5. The Government of the Sudan is responsible for systematic violations of civil and political rights. Torture is a serious problem and rather than combating impunity, the judicial system is used against political opponents of the Government. However, the Government in December 1999 finally released Fr. Hilary Boma, chancellor of the Archdiocese of the Catholic Church in Khartoum, Fr. Lino Sebit, and 18 others who had been held for 16 months in

connection with an alleged sabotage conspiracy in the most notorious example of selective prosecution. There has been no suggestion of reparations or compensation for the torture they suffered. Three other men detained with them died under torture in August 1998.

6. The Government permitted political associations to register after a ban imposed when it took power through a military coup in 1989. It timed state assembly elections so soon after, however, that the newly registered political parties declined to present candidates. Most parties continue to function only from exile.

7. Freedom of assembly, association and expression have been violated through arrests and bans on meetings, protests and unregistered organizations. Two large Sufi Muslim religious brotherhoods, the Ansar and the Khatmiyya, are associated with the banned Umma and Democratic Unionist Party (DUP) opposition parties. The religious leaders are intermittently detained and harassed.

8. The Government has a policy of harassment of Christian Churches and permits zealous Muslims at local levels to harass Christians and destroy their places of worship, although some local officials do not permit this. Apostasy, or conversion by Muslims to another faith, is a capital crime. The Khartoum state government continued to destroy Christian structures (schools and places of worship) along with slum housing, preventing the consolidation of southerners and Nubas in urban neighbourhoods. It rarely granted building permits to Christian denominations while freely granting permits for mosques. The Khartoum state government appears to want to close all the Catholic schools, which provide (free) primary education for 48,000 mostly southern and Nuba students in poor neighbourhoods, although its efforts have been thwarted so far.

9. Public order police continue to harass women and monitor women's dress for orthodoxy. Women guards are posted outside universities to ensure that women students wear the prescribed baggy garments. In June the public order police raided a picnic and detained 25 Nuba students, 9 of them women. They were convicted of publicly meeting without public order police permission. The women students also were convicted of wearing an indecent or immoral uniform (trousers). The court sentenced the students, including the women, to 40 lashes each and fines; the women were flogged despite a decree that women would no longer be flogged except for crimes such as adultery or drinking alcohol.

10. The Government denied all allegations of the existence of slavery until May 1999, when it acknowledged the problem of "abduction and forced labour of women and children" and set up a committee to address it. Its work retrieving children held in forced labour has proceeded, but it has not done anything noticeable to end the militia and army raids to capture slaves in the south of the country.

11. The most serious abuse of the rebel Sudan People's Liberation Army (SPLA) is the armed ethnic conflict between its Bor Dinka soldiers and the Didinga tribe which formerly supported SPLA until its abuses - summary executions, torture, stealing food - led the Didinga to revolt. SPLA planted antipersonnel land mines freely in the area. Despite many peace delegations, SPLA has not implemented the recommendations to end this slaughter.

12. Given these and other serious human rights abuses in the Sudan, it is imperative that the mandate of the Special Rapporteur be extended. In addition, the High Commissioner for Human Rights should establish monitoring offices in the Sudan to report on human rights abuses in government and rebel-controlled territory.

United States of America

13. In the United States, Human Rights Watch is concerned about the conditions of confinement and treatment of the approximately 16,500 individuals held daily by the United States Immigration and Naturalization Service (INS) in detention centres and jails around the country. They are asylum-seekers, undocumented immigrants, unaccompanied minors and individuals detained after serving criminal sentences; approximately 3,500 of whom face indefinite detention.

14. We are particularly concerned by the INS practice of holding more than half of its detainees in local jails. At these jails, the INS administrative detainees are treated the same as the criminal inmates held there. INS has also failed to create or implement standards for conditions or treatment and has failed to provide adequate oversight at the jails. Our research has found that: INS detainees often shared living and recreation space with convicted criminals; medical and dental care were extremely limited and typically of poor quality; detainees were frequently transferred from facility to facility with no apparent consideration by the INS for location of family or legal counsel, who were often given no notice of the transfer; staff at local jails were ill-equipped to deal with a multilingual population; disciplinary sanctions were liberally applied to INS detainees, sometimes as a result of linguistic or cultural miscommunications; and detainees reported instances of serious physical abuse by jail staff.

15. Detainees facing indefinite detention - because they are stateless, cannot obtain identification documents from their home countries, or their country of origin will not accept their return and the United States prohibits their release - face a particularly egregious form of arbitrary detention. Belatedly, INS has recently instituted rules requiring mandatory reviews of those detainees who cannot be returned or released. The detainees must prove that they are not a danger to society, have community or family ties, and have been "rehabilitated". There are reports from immigrants' rights groups that these guidelines are not being followed consistently and that each INS district is applying the new rules differently. Furthermore, proving "rehabilitation" is nearly impossible for most detainees, especially those held in jails, because activities or programmes that might show rehabilitation are not provided.

16. We recommended that the Working Group on Arbitrary Detention conduct an investigation of the immigration detention practices and policies of the United States. The Working Group should examine whether the detention of these individuals is warranted, and whether INS has taken adequate steps to address problems faced by those unlucky enough to be held in local jails or those who face indefinite detention.

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